

STATE OF MICHIGAN

DEPARTMENT OF CONSUMER & INDUSTRY SERVICES

BEFORE THE STATE BOUNDARY COMMISSION

In the matter of:

**Boundary Commission
Docket #97-AP-7**

**The proposed annexation of
territory in Vernon Township
to the City of Durand.**

SUMMARY OF PROCEEDINGS, FINDINGS OF FACT AND ORDER

This matter of proposed annexation of the following territory situated in Vernon Township to the City of Durand and described as follows:

PART OF THE EAST ½ OF THE SOUTHWEST ¼ OF SECTION 22, TOWNSHIP 6 NORTH, RANGE 4 EAST, VERNON TOWNSHIP, SHIAWASSEE COUNTY, MICHIGAN, DESCRIBED AS BEGINNING AT THE INTERSECTION OF THE EAST-WEST ¼ LINE OF SAID SECTION 22 WITH THE CENTERLINE OF THREE MILE CREEK, SAID POINT BEING NORTH 89 DEGREES 03' 58" WEST ALONG THE EAST-WEST ¼ LINE OF SECTION 22, 31.81 FEET FROM THE INTERIOR ¼ CORNER OF SAID SECTION, THENCE SOUTH 34 DEGREES 01' 20" WEST, ALONG THE CENTERLINE OF THREE MILE CREEK 662.29 FEET, THENCE SOUTH 64 DEGREES 49' 27" WEST, ALONG [THE] CENTERLINE OF THREE MILE CREEK, 456.94 FEET, THENCE NORTH 58 DEGREES 55' 40" WEST ALONG A BRANCH OF THREE MILE CREEK DRAIN, 594.12 FEET TO THE WEST ⅛ LINE OF SECTION 22, THENCE NORTH 00 DEGREES 57' 27" EAST, ALONG [THE] WEST ⅛ LINE 457.69 FEET TO THE EAST-WEST ¼ LINE OF SECTION 22, THENCE SOUTH 89 DEGREES 03' 58" EAST, ALONG THE EAST-WEST ¼ LINE OF SAID SECTION, 1,285.48 FEET TO THE CENTERLINE OF THREE MILE CREEK AND POINT OF BEGINNING.

SUMMARY OF PROCEEDINGS

- A. On September 24, 1997, a petition was filed requesting the annexation of certain territory in Vernon Township to the City of Durand.
- B. On December 11, 1997, an adjudicative meeting was held to determine legal sufficiency and the petition was found to be legally sufficient pursuant to Public Act 191 of 1968, as

amended, and Public act 279 of 1909, as amended.

- C. On February 5, 1998, a public hearing was held to receive testimony given pursuant to Public Act 191 of 1968, as amended. Notice of said hearing was published and mailed pursuant to Section 8 of Public Act 191 of 1968 as amended.
- D. On April 9, 1998, an adjudicative meeting was held to consider the docket, and the Commission voted to recommend approval of the annexation, as petitioned, to the Director of the Department of Consumer and Industry Services.

INFORMATION FROM THE RECORD

- 1. The record states:
 - The petitioned area is 15.6 acres zoned residential.
 - The population is zero.
 - The property is currently being farmed.
 - The property is adjacent to a residential subdivision in the City.
- 2. The record states
 - Access to the property is from Manfred Street, which is a subdivision street in the City. There is no access to the property from the Township.
 - Three Mile Creek and the Smith and Shepard Drain form the southern and eastern boundaries from the Township.
- 3. The record states:
 - City sewer lines are within 100 feet of the proposed area.
 - Sewer and water services from the City are available immediately upon annexation.
 - The cost of sewer and water services to customers outside the City is double the rate for City residents.
- 4. The 1997 state equalized value (SEV) was \$10,800, less than 1/100 of a percent of the Township's SEV for real property.
- 5. The Township stated:
 - They offered the City an Act 425 Agreement on this property in November, 1997.
 - They interpret MCL 117.9 Section 7b. to require that under a land contract the property owner would have to have paid 75% of the cost to qualify as having 75% equitable ownership interest.
 - There is no specific language in the land contract that gives Mr. Liker the ability to request annexation.
 - They would like the Commission to give them time to work out an agreement with

the City regarding the proposed area.

- The proposed area is five sided and contiguous to the City on two sides.

6. The City stated:

- The City Council would accept this property.
- The City can provide sewer and water.
- The property is basically surrounded by the City on three sides.
- The area is virtually an island since there is no access to the property without going through the City.
- The property can be served with sewer and water through the Franchise Agreement at twice the rate, but police and fire protection would still have to come from the Township.
- The City and the Township could not reach an agreement regarding the area proposed for annexation.

7. The petitioner stated:

- He would like to develop the property for residential use.
- He preferred municipal water service for the property rather than using well water.
- If the property remains in the Township and he receives sewer and water through the Franchise Agreement, then he would have to pay double the sewer and water rates of City residents.
- The Township will not provide access to the parcel.
- He believes that an agreement between the City and the Township regarding roads, sewer and water for his property will never be reached.

8. No one from the public testified or submitted information expressing opposition to the annexation.

THE COMMISSION FINDS THAT

1. The petitioner requested the annexation to obtain public sewer and water services from the City to develop the property for residential use.
2. The City has the capacity and capability to provide the sewer and water services.
3. The area proposed for annexation does receive fire and police protection, but the Township does not provide water and sanitary sewer services except through a Franchise Agreement with the City.
4. The proposed annexation reflects the best of the available alternatives in providing municipal services to the area.

5. There will be no effect on the Township's population as the proposed area is currently vacant.
6. The proposed annexation is suitable with regard to the natural boundaries and drainage basins.
7. The proposed annexation will not result in a substantial reduction of the Township's tax base or revenues.
8. The annexation of the proposed area will not have a deleterious effect on the broader community.
9. Provision of City water and sewer services to the proposed area would not create an inconsistency with land use patterns in the proximity.
10. The proposed annexation will result in an increase of taxes for the affected area, but the increase is relatively consistent with the services that the territory and occupants will receive.
11. The City appears to have the fiscal capacity to accommodate the added demand for services for the area.

IN CONCLUSION, THE COMMISSION FINDS THAT

1. The Commission has considered the record of this docket in accordance with the criteria stipulated under Section 9 of Public Act 191 of 1968, as amended.
2. On April 9, 1998, State Boundary Commissioners VerBurg and Walker and County Boundary Commissioner Harris held an adjudicative meeting during which:
 - Commissioners VerBurg, Walker, and Harris voted to recommend annexation of the subject territory as petitioned and described herein,
 - the staff was directed to prepare draft Findings of Fact and Order.
3. On May 7, 1998, Commissioners VerBurg, Rutledge, and Harris held an adjudicative meeting during which
 - the draft Findings of Fact and Order was reviewed, and
 - the Commission voted to adopt the Findings of Fact as amended and to recommend that the Director of the Department of Consumer and Industry Services sign the Order.

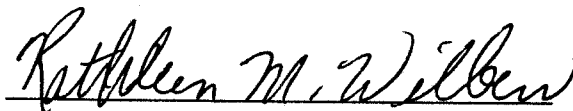
ORDER

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IT IS ORDERED THAT, the described subject territory in Vernon Township, Shiawassee County, be annexed to the City of Durand.

IT IS FURTHER ORDERED THAT, these Findings of Fact and Order shall be effective thirty days after the date the Director of the Department of Consumer and Industry Services signs the Order.

IT IS FURTHER ORDERED THAT, the Executive Director shall forthwith transmit a certified copy of the Findings of Fact and Order to the petitioner, the Vernon Township Clerk, the City of Durand Clerk, the Shiawassee County Clerk, and the Secretary of State.



Kathleen M. Wilbur, Director
Department of Consumer and Industry Services

Date: 6/10/98